

This is a record of my January 15, 2019 meeting with Misha Isaak and Emily Matasar of Governor Kate Brown's office. I am writing this the day after the meeting with Misha and Emily.

This meeting was called at my request after a previous meeting in which Misha and Emily in which Misha disagreed with several of the points made in the Public Records Advisory Council's November 30, 2018 report. Todd Albert, Deputy Public Records Advocate, was also present at that prior meeting, which took place on January 7, 2019. During the January 7, 2019 meeting, Misha instructed me and Todd that if we planned to file future reports, we should send them to the Governor's office prior to filing so that the Governor's office could comment. It was left ambiguous whether these comments would be binding or simply advisory.

In a followup conversation with Emily Matasar, I asked what the timeline was for sending reports to the Governor's office and attempted to clarify whether the Office of the Public Records Advocate or the Public Records Advisory Council were required to receive authorization from the Governor's office before filing reports or publicly releasing them. Emily indicated that the Governor's office wanted the opportunity to comment on any reports but was uncertain of whether or not the Public Records Advocate or Council needed authorization. She suggested that we set up a meeting with Misha. That meeting was set for January 15, 2019.

The January 15, 2019 meeting began with Misha stating that he had reviewed ORS 192 and his interpretation of it is that the Public Records Advocate works for the Governor's Office. He recalled that in conversations with DAS during the spring of 2018, DAS had stated that it did not think it was appropriate for DAS to supervise the Advocate. The Governor's Office then assumed supervisory responsibilities. None of this had previously been conveyed to me. In prior conversations with multiple parties, including the Governor's office, it had been stated that the Advocate was intended to be independent. When I had asked in Spring 2018 who I would report to, the Governor's office replied that I did not report to them. When I raised that point in this meeting, Misha stated that the legislature had put some measures in the Advocate bill that would create some independence, he was of the opinion that that independence was only vis-à-vis the daily operations of the Office (it's mediation and training), but that for political matters and matters of policy, the Advocate worked for the Governor and the Governor's office is free to intercede. Misha conveyed that it is his interpretation that the core functions of the office are mediation and training, when I mentioned the Advocate's position as Chair of the Council, he stated that the Council was only meant to be a temporary body, and that chairing it was not core to the Advocate's duties.

When I raised the point that the Advocate Office is an ombuds office, Emily stated emphatically that it is not an ombuds office, it is an Advocate office, and there is a difference.

Misha then conveyed that in his interpretation he is the supervisor of the Advocate and that the weekly meetings I had had with Emily were, in fact, supervisory check-ins. This had never been conveyed to me before. It was my understanding that those meetings were a friendly effort by the Governor's office to keep up with the work of the Advocate and the Council, to offer advice and feedback, and to exchange information.

The meeting then turned to matters related to the legislative session. I had previously asked for advice regarding how to manage reporter inquiries on pending legislation. I had raised this question because it had been conveyed to me in several DAS trainings that agency officials are not to comment on pending

legislation. Misha conveyed that this was the case and that I was to reply “I have not taken a position on that legislation.” I accepted this without dispute.

Misha then directed the discussion to another issue that he disagreed with, the Council’s choice to exclude local entities from its proposed bill regarding annual reporting requirements – this was also discussed in the context of another bill submitted by an outside group which had stuck a similar compromise. Misha conveyed to me that by doing that the Council (and the third parties pushing the other bill) had put the Governor in an awkward position of having to potentially oppose bills herself instead of relying on stakeholders and lobbyists for cities, counties, and special districts to oppose the bills. When I stated that I did not have control over the proposals that the Council agrees to and that this was a compromise that had allowed a bill to reach consensus agreement, he stated that I should be considering the effect this has on the Governor’s office. I pointed out that there were other representatives of state government on the Council who could have objected and he said that there were reasons several of them would not object and that DAS’ representative should not have to shoulder the burden of objecting. He implied that it was my job to control what proposals were put forth to the Council and, ultimately, what proposals were agreed upon by the Council and, in doing that, I should be operating with the Governor’s office agenda in mind. I pointed out that limiting the provisions to state agencies made it more likely that they would gain consensus, especially in light of the fact that there are several lobbyists who represent localities on the Council. He also stated that in the future I should not prioritize creating consensus policy proposals over the political considerations of the Governor’s office. He stated that in the future I should keep the Governor’s office in the loop regarding Council proposals (note: Emily had been present at most of the Council meetings, which are public meetings, available for call-in participation and afterward for streaming online). I stated my discomfort with being put in the position of advocating for an agenda which I was not free to disclose or discuss with the Council. This objection was not really discussed.

In the spirit of cooperation, I then asked if they had suggestions for what the Council should focus on in the coming year. They suggested a meeting with the Governor to discuss her ideas regarding policy priorities.

Toward the end of the meeting, Misha conveyed to me that they were impressed with the fact that I had been able to set up the office, conduct so many trainings, and give assistance to so many individuals. However, he said that I should be less ambitious, not move so fast, and recognize that I do not know about the politics or nuance of Oregon. Thus, I should “listen” and not attempt to propose reforms about things I did not fully understand. I should, instead, rely on the Governor’s office to make decisions about these things. This part of the meeting felt both demeaning and condescending. Nowhere in this discussion was an acknowledgement that I am a professional, with a decade of specialized experience in politics, reform, public records, advocacy and government. It was both disrespectful and unnecessarily hostile. Despite the offensiveness of the situation, I listened patiently and cordially.

The meeting concluded with an uncomfortable statement by Misha that he is concerned that I will leave the meeting and call Nick Budnick [a reporter] and tell him that the Governor’s office is trying to censor me. This conveyed to me that I was expected to keep this meeting, including the fact that the Governor’s office interpreted ORS 192 to mean that I report to them, a secret. This expectation of secrecy made me feel uncomfortable. It felt both unethical and dishonest.

